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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,321	07/08/2005	Pierre Le Bot	262421US6PCT	3878
22850	7590	11/13/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
CAJILIG, CHRISTINE T				
ART UNIT		PAPER NUMBER		
3633				
NOTIFICATION DATE		DELIVERY MODE		
11/13/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/516,321

Applicant(s)

LE BOT ET AL.

Examiner

CHRISTINE T. CAJILIG

Art Unit

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/13/04, 9/08/08.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-50 is/are pending in the application.
4a) Of the above claim(s) 30,33,38 and 42-47 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 26-29,31,32,34-37,39-41 and 48-50 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 13 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/08/05, 4/11/05
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election of Group I (Species 1) in the reply filed on 9/05/08 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 30, 33, 38, and 42-47 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species 2 and 3, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/05/08.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "second contact region [situated] on the bearing structure (as noted in claim 29) and "a connection between at least two panels configured to move relative to each other" (as noted in claim 50) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 29-50 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a point fastener attached to a corner of a panel, does not reasonably provide enablement for the point fastener attaching the panel to a

bearing structure or to another panel while permitting movement. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims. In the instant case, the specification does not provide any guidance as to how a connection with a bearing structure or another panel is achieved. The specification merely purports the benefits, such as maximizing transparency and minimizing thickness between the panel and a bearing structure, of having a point fastener mounted on a corner of a panel. See Specification, pages 2 and 7. Moreover, the nature of how and where the panel is used can give light as to how the invention would operate and engage a bearing structure or another panel. The specification, however, is silent as to the nature of the invention and lacks direction on how to use it in such a manner. The manner in how the panel and the fastener are attached to a building or another panel would require undue experimentation absent any guidance on how such a connection is accomplished.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 29 and 48-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 29, the recitation of "the second contact region is situated on the bearing structure" renders the claim to be indefinite." In addition to the questions posed

in the 112 first paragraph rejection above, such a limitation is also unclear in view that claim 1 has already set forth that the second contact region is situated on the panel and not on the bearing structure.

Claims 48-50 provides for the use (i.e. application) of the fixing panel, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 48-50 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26-28, 35, and 36, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Gilbert (U.S. Patent No. 3,936,968).

Regarding claim 26, Gilbert discloses a fixing system for fixing a panel of fragile material to a bearing structure, comprising: at least one point fastener (3) configured to engage with at least one first contact region produced in the panel (7), wherein said point fastener comprises a first anchoring part (surface in contact with an edge of 7) at a first contact region and a second anchoring part (surface perpendicular to the first anchoring part and in contact with a corresponding perpendicular edge of 7) at a second contact region situated on the panel, the first and second anchoring parts being connected by at least one adjusting device (11, 13) configured to bring the first and second anchoring parts to bear against the first and second contact regions respectively and being situated in a plane of the panel.

Regarding claim 27, Gilbert further discloses that the second contact region is situated on an edge face of the panel.

Regarding claim 28, Gilbert further discloses that the second contact region is situated on a side of the panel.

Regarding claim 35, Gilbert further discloses that the first and second contact regions are positioned on two respective adjacent sides of the panel.

Regarding claim 36, Gilbert further discloses that the first and second contact regions are positioned one on each side of an axis of symmetry of the panel.

Claims 26 and 29, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Schwartz (U.S. Patent No. 3,694,984).

Regarding claims 26 and 29, Schwartz discloses a fixing system for fixing a panel of fragile material to a bearing structure, comprising: at least one point fastener (11) configured to engage with at least one first contact region produced in the panel (1), wherein said point fastener comprises a first anchoring part (27, 28 abutting the panel) at a first contact region in the panel and a second anchoring part (27 and 28 bearing on a frame 2) at a second contact region situated on the bearing structure (2), the first and second anchoring parts being connected by at least one adjusting device (4, 13) configured to bring the first and second anchoring parts to bear against the first and second contact regions respectively and being situated in a plane of the panel.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-28, 31, 32, 34, 37, 39-41, and 48-50, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Veldhoen (U.S. Patent No. 4,475,325).

Regarding claims 26 and 48, Veldhoen discloses a fixing system for fixing a panel to a bearing structure, comprising: at least one point fastener (9) configured to engage with at least one first contact region produced in the panel (1), wherein said point fastener comprises a first anchoring part (28) at a first contact region and a

second anchoring part (28) at a second contact region situated on the panel, the first and second anchoring parts being connected by at least one adjusting device (25, 13) configured to bring the first and second anchoring parts to bear against the first and second contact regions respectively and being situated in a plane of the panel.

Veldhoen does not disclose that the panel is made of a fragile material.

It would have been obvious to one having ordinary skill in the art at the time of invention make the panel out of a fragile material, such as glass, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice and would provide a gladding system that would allow light into a bearing structure. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Regarding claim 27, Veldhoen further discloses that the second contact region is situated on an edge face of the panel.

Regarding claim 28, Veldhoen further discloses that the second contact region is situated on a side of the panel.

Regarding claim 31, Veldhoen further discloses that at least one of the first and the second contact regions is produced within an open orifice (the open orifice created by recesses 8).

Regarding claim 32, Veldhoen further discloses that at least one of the first and the second contact regions is produced within a cut-out (8).

Regarding claim 34, the claim is a product by process claim and the panel does not depend on the process of making it. The product-by-process limitation "the first and

second contact regions [are] produced by pinching would not be expected to impart distinctive structural characteristics to the panel. Therefore, the claimed panel is not a different and unobvious panel from the panel with contact regions as disclosed by Veldhoen.

Regarding claim 37, Veldhoen further discloses that the fixing system comprises two point fasteners each positioned on each side of a mid-plane roughly parallel to the panel, the mid-plane also being roughly perpendicular to the first and second contact regions. See Figure 8.

Regarding claim 39, Veldhoen further discloses that the adjusting device comprises a tensioning device (when bolt 13 is tightened, it creates tension in member 25).

Regarding claim 40, Veldhoen further discloses that the tensioning device comprises a screw-nut device.

Regarding claim 41, Veldhoen further discloses that the adjusting device comprises a torque-limiting device.

Regarding claim 49, Veldhoen further discloses that the panels are vertical or inclined to a vertical.

Regarding claim 32, Veldhoen further discloses that the fixing system makes a connection between at least two panels configured to move relative to one another (in the vertical direction).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prendergast (US 1454335) two-piece link; Spilka (US 4629152) corner support; MacDowney (US 1083502) glass support; Rousseau et al. (US 4991328) structure joined at the corners; Wu (US 4028832) corner support;

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINE T. CAJILIG whose telephone number is (571)272-8143. The examiner can normally be reached on Monday - Thursday from 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571) 272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

Art Unit: 3633

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/C. T. C./

Examiner, Art Unit 3633

/Robert J Canfield/

Supervisory Patent Examiner, Art Unit 3635